

HUMAN SERVICES BOARD

In re) Fair Hearing No. 20,864
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Appeal of)

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, that petitioner was overpaid Food Stamp benefits for the months of January through March, 2007.

The petitioner's original fair hearing request also included an appeal of a separate decision by the Department closing his household's Food Stamp case. The petitioner's case was converted from a two person household to a one person household. As a result, the issue of closure was withdrawn.

At the fair hearing held on July 25, 2007, the petitioner requested a compromise of the overpayment. The case was held open to allow the Department to consider the petitioner's request for compromise. After considering the regulation and procedures governing compromises, the Department found that a compromise could not be granted.

FINDINGS OF FACT

1. The petitioner is a disabled individual who receives \$855 per month in Social Security Disability benefits.

2. On or about January 1, 2007, the petitioner lived with his son. His son acted as a caretaker helping the petitioner during the day. At that time, petitioner received Food Stamps based upon a household of two. The petitioner received \$784 in Food Stamps from January through March 2007 representing: \$284 (January), \$250 (February), and \$250 (March).

3. At the beginning of March 2007, the petitioner learned that his son was working. Petitioner testified that he did not know where his son worked or the amount of his son's wages. Petitioner explained that he called his caseworker to report his son was working. Petitioner's son left the household shortly thereafter. Petitioner had already used the March Food Stamps before learning that his son was working.

4. The Department received the son's weekly employee payroll history report from the employer at the beginning of March 2007. The records indicated that petitioner's son was hired on December 6, 2006. The Department learned of the

son's employment through the computer matches they do with other state agencies.

5. The Department recalculated the household's Food Stamps to include the updated income information. The Department started their calculations with the petitioner's unearned income of \$855. Using the son's earned income, they calculated his gross monthly wages at \$955.15. The Department applied the earned income disregard of 20 percent of the gross earned income or \$191.03. In addition, the standard deduction of \$134 and a shelter deduction of \$226.44 were subtracted. Based on their calculations, the Department determined that the petitioner's countable monthly household income of \$1258.68 exceeded the monthly program maximum of \$1,100 for a two person household.

6. On April 19, 2007, the Department sent the petitioner a Notice that he had been overpaid Food Stamps in the amount of \$784. The Department subsequently sent a Notice dated April 27, 2007 closing petitioner's food stamps effective May 31, 2007. Petitioner requested a fair hearing on May 8, 2007. As noted above, petitioner's case was changed to a one person household and the appeal of the closure withdrawn.

7. The Department reviewed petitioner's request for compromise and determined that the Food Stamp overpayment could not be compromised.

ORDER

The Department's decision that the petitioner was overpaid Food Stamps is affirmed.

REASONS

The Food Stamp program was created to combat hunger and malnutrition among low income households. Food Stamp Manual (FSM) § 271.1. The regulations governing eligibility determinations and benefit levels are found at FSM § 273.10. When a household's income or composition changes, the Department needs to look at the household's continuing eligibility.

When the Department learned that the petitioner's son was employed, they obtained verification of the son's weekly income from the employer. The Department recalculated the petitioner's eligibility by adding the son's earned income and applying the appropriate disregards permitted by FSM § 273.9(d). The Department correctly found that the petitioner's household had countable income of \$1,258.68

which is in excess of the program maximums of \$1,100 for a household of two. P-2590C.

Pursuant to FSM § 273.18(e)(7), the Department can compromise Food Stamp overpayments if "the household's economic circumstances dictate that the claim will not be paid in three years." The Department has adopted an internal procedure for making such determinations. P-2540B4.

Under this procedure, a household is determined able to pay an amount equal to ten percent of the monthly "Thrifty Food Plan" (TFP) amount for their household size multiplied over three years. In March 2007, the TFP was \$284 for a two person household. Taking ten percent of the TFP or \$28.40 and multiplying it by 36 month yields the affordability figure of \$1,022.40. Because this amount exceeds the overpayment amount, the Department determined that the petitioner could repay his overpayment within three years. Hence, the petitioner was not eligible for a compromise.

Petitioner can repay the overpayment through a monthly reduction of his Food Stamps. Payment of the overpayment can be made by reducing the petitioner's Food Stamps by either \$10 per month or 10 percent of the Food Stamp allotment, whichever figure is higher. FSM § 273.18(f).

Based on the foregoing, the Department's decision to assess a \$748 overpayment in Food Stamp benefits is affirmed.

3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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